

Great Meadow Correction Facility
P.O. Box 51
Comstock, New York 12821

AUG 25 2008

CHAMBERS OF
ANDREW J. PECK

August 19, 2008

Hon. Andrew Peck
Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#
DATE FILED: 4/3/08

Re: Luis Caban v. David Rock, 08-Civ-3827;
Second request for additional time to file Traverse Brief.

Dear Judge Peck:

Please find a copy of petitioner's motion for an additional extension time to file his traverse brief, and support affirmation of the law clerk assisting him, in addition to support papers.

By copy of this letter, Mr. Caban is informing the respondent of the same.

Mr. Caban would like to thank the Court in advance for its time, attention and consideration in this most important matter.

Very truly yours,



Luis Caban

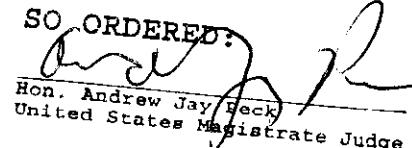
05-A-0833

cc: copy

Robert T. Johnson
District Attorney, Bronx County
Office of the District Attorney
198 E. 161st
Bronx, NY 10456

MEMO ENDORSED 9/2/08
DENIED.

SO ORDERED:



Hon. Andrew Jay Peck
United States Magistrate Judge

cc: M. Caban
Counsel (KA)
J. J. Farley

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In the Matter of the Application of

LUIS CABAN,

Petitioner,

08 Civ. 3827

- against -

DAVID ROCK, Superintendent,
NYS Depart of Correctional Services,

CERTIFICATE OF SERVICE

Respondent.

-----X

LUIS CABAN, declare under the penalty perjury that I have served a copy of the
my Second Request for an for Enlargement of Time To File Traverse Brief, upon:

Robert T. Johnson
District Attorney, Bronx County
Office of the District Attorney
198 E. 161st
Bronx, NY 10456

By placing the same in a sealed postage pre-paid envelope addressed the above-named,
after depositing the same in a U.S. Mail box, maintained and located at: Great Meadow
Correctional Facility, POB 51, Comstock, NY 12821.

Dated: August 19, 2008
Comstock, NY 12821

Yours etc.,

Luis Caban
Luis Caban
#05-A-0833

P.O. Box 51
Comstock, NY 12821

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of the Application of

LUIS CABAN,

08 Civ. 3827

Petitioner,

NOTICE OF MOTION

- against -

DAVID ROCK, Superintendent,
NYS Depart of Correctional Services,

Respondent.

-----X

PLEASE TAKE NOTICE, that upon the affirmation of Luis Caban, petitioner, pro se, affirmed on the August 19, 2008, and upon the Motion for an Enlargement of Time to file a reply in support of his habeas corpus petition herein, petitioner will move this Court, Andrew Peck, U.S.D.M.J., in room 1370, United State Courthouse, New York, New York 10007, on the ____ August, 2008, at 9:30 a.m. or as soon thereafter as petitioner may be heard, for an order pursuant to rule 5 (a) of the Federal Rules of Civil Procedure ("FRCP") seeking additional time to perfect his traverse brief.

Dated: August 19, 2008
Comstock, New York

TO: Robert T. Johnson
District Attorney, Bronx County
Office of the District Attorney
198 E. 161st
Bronx, NY 10456

Yours etc.,
Luis Caban
Luis Caban
#05-A-0833

P.O. Box 51
Comstock, NY 12821

SOUTHERN DISTRICT OF NEW YORK

-----X

In the Matter of the Application of

LUIS CABAN,

08 Civ. 3827

Petitioner,
- against -

**AFFIRMATION IN
SUPPORT OF MOTION**

DAVID ROCK, Superintendent,
NYS Depart of Correctional Services,

Respondent.

-----X

I, LUIS CABAN, makes the following affirmation under the penalty of perjury:

I am the petitioner in the above-entitled action, and I respectfully move this Court pursuant to rule 5(a) of the FRCP, for an Order granting me an additional twenty (20) days to file a reply to respondent's Answer to my habeas corpus petition.

1. The reason why I need additional time is expressed in the attached affirmation of Joseph Vidal (94-A-5584), Great Meadow Facility's Law Library law clerk, who has been assigned to assist me with preparing the papers in the herein habeas corpus proceeding.

2. On July 22, 2008, Mr. Vidal was assigned, by the Law Library Supervisor to assist me.

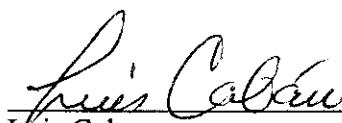
3. Mr. Vidal law library position is a book clerk. This task takes up most of his time, because he has to serve approximately 20 inmates during his work hours. Therefore he is unable to dedicate ample time to completing my traverse brief in a timely manner.

4. For the aforementioned reasons, I respectfully ask for an additional twenty (20) days, until September 18, 2008

5. I declare under the penalty of perjury that the foregoing is true and correct.

WHEREFORE, petitioner respectfully requests that the Court grant the within motion, as well as such other and further relief as may be deemed just and proper.

Executed on August 19, 2008



Luis Caban
#05-A-0833

P.O. Box 51
Comstock, NY 12821

SOUTHERN DISTRICT OF NEW YORK

-----X

In the Matter of the Application of

LUIS CABAN,

08 Civ. 3827

Petitioner,
- against -

**AFFIRMATION OF
JOSEPH VIDAL**

DAVID ROCK, Superintendent,
NYS Depart of Correctional Services,

Respondent.

-----X

I, JOSEPH VIDAL, make this affirmation in support of Mr. Caban's Motion an Extension to Time to perfect his traverse brief.

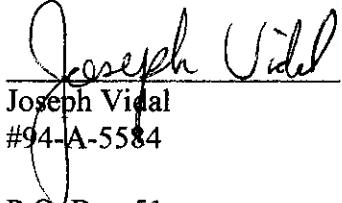
1. I am a law clerk in Great Meadow Correctional Facility's law library, and my position as a law clerk entails handing out law books, legal forms, and explaining the different areas of substantive and procedural law.
2. I am one out of three bi-lingual law clerks who service a population of approximately one thousand plus prisoners. Approximately twenty-five inmates attend the law library. Several Latino inmates regularly seek assistance with their cases.
3. On July 22, 2008, I was assigned, by the Law Library Supervisor to Mr. Caban. Attached please find Great Meadow's Law Library Legal Assistance Authorization Form..
4. The handling of books in conjunction with explaining the law to the Prisoners not only is it time consuming but physically and mentally draining, and also we are not given sufficient time during the working hours to hand out book, advise prisoners, and do research and prepare papers that the court expects, I, on behalf of Mr. Caban, a

pro se litigant to file within the limits set forth by the court. Attached is the Court's Memo Endorsed/Order, dated 8/29/08, granting Mr. Caban and extension to time to file a traverse.

5. For the foregoing reason, I respectfully ask that the court grant Mr. Caban an additional extension of time, so that I may adequately prepare in reply, on behalf of Mr. Caban, to the respondent's answer.

6. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on August 19, 2008


Joseph Vidal
#94-A-5584
P.O. Box 51
Comstock, NY 12821

**GREAT MEADOW CORRECTIONAL FACILITY
LEGAL ASSISTANCE AUTHORIZATION**

INSTRUCTIONS:

- (1) The law clerk must complete this form.
- (2) The inmate being assisted must sign this form in the presence of an officer or the law librarian.
- (3) Upon completing this form, make two copies.
- (4) Give the original to the law library O.I.C., and one copy to the inmate being assisted.
- (5) Keep one copy with any papers provided by the inmate being assisted.

Print inmate's name: I, Law Clerk Din #: 1538073 Cell location: A-7-27 conferred with law clerk: Joseph V. J. Din #: 1538073 on: 7-22-08 for assistance.

I, Law Clerk, requested that the clerk named above furnish me with advice and assistance as he deems appropriate.

Witness: Officer Title: DO Date: 7/22/08

NO PAYMENT OF ANY KIND MADE ON BEHALF OF, OR FROM AN INMATE SHALL BE PERMITTED IN EXCHANGE FOR ASSISTANCE PROMISED OR PROVIDED.

I, Law Clerk Din #: 1538073 Location: A-7-27 rendered to law clerk: Joseph V. J. the following papers 1538073 which are in excellent ✓, good , fair or poor condition. All pages are intact? Yes/No

Inmate's signature: Law Clerk

Approved by: Officer

I, Law Clerk, verify that the above-named papers were returned to me on 7-22-08 in a condition consistent with that in which they were received.

Inmate's signature: Law Clerk Date: 7/22/08

Witnessed by: _____ Date: _____